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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,462	10/06/2000	Mark A. Kottman	087522785134	3279
7590	11/19/2002	Russell L. McIlwain Jones, Day, Reavis & Pogue 77 West Wacker Chicago, IL 60601-1692	EXAMINER HORTON, YVONNE MICHELE	
			ART UNIT	PAPER NUMBER

3635

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/684,462	Applicant(s) KOTTMAN ET AL.
	Examiner YVONNE M. HORTON	Art Unit 3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Aug 29, 2002
 - 2a) This action is FINAL. 2b) This action is non-final.
 - 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- Disposition of Claims**
- 4) Claim(s) 1-8 is/are pending in the application.
 - 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
 - 5) Claim(s) 1-3 and 8 is/are allowed.
 - 6) Claim(s) 4-7 is/are rejected.
 - 7) Claim(s) _____ is/are objected to.
 - 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3635

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4-6 stand rejected under 35 U.S.C. 102(b) as being obvious over US Patent #6,128,877 to GOODMAN et al. GOODMAN et al. discloses the use of a modular wall panel including a generally rectangular frame (2) having a lower channel member (12), a base rail (44), at least two glide assemblies (GA) (see marked-up attachment), apertures (unlabeled) because column 9, lines 33-34 and column 13, lines 45-46 disclose that the frame (2) is comprised of member (12), thus it would have been obvious to one having ordinary skill in the art at the time the invention was made that the member 12 would also have apertures to receive the screw (37), see Figure 10. Further, GOODMAN discloses the basic claimed modular panel except for the step of inserting a rotary tool is a method step which is not germane to the issue of patentability of the modular wall panel itself. Therefore, this limitation has not been patentable weight in this apparatus claim.

Art Unit: 3635

In regards to claims 5 and 6, the modular wall system of GOODMAN et al. further includes a decorative panel (30) and a base panel (81).

Claim 7 is rejected under 35 U.S.C. 102(b) as being obvious over US Patent #6,128,877 to GOODMAN et al. In view of US Patent #5,381,994 to WELCH. GOODMAN et al. discloses the basic claimed structure except for explicitly stating that his adjustment member is threaded. Figures 2 and 18 of GOODMAN et al. Appear to show threads on the adjustment member (37). However, WELCH explicitly teaches the use of threads, column 3, line 10, on his threaded member (60) and a sleeve (SL) for receiving the threaded member, see the marked attachment. Thus, it would have been obvious to one having ordinary skill in the art to thread the adjustment member of GOODMAN et al. and to provide the assembly with a sleeve in order to securely receive and maintain the threaded member in position.

Response to Arguments

Applicant's arguments are moot in view of the modified rejections as set forth above.

Allowable Subject Matter

Claims 1-3 remain as being allowed.

Claim 8 is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

Yvonne M. Horton
Patent Examiner
Art Unit 3635
November 18, 2002

Patent

Oct. 10, 2000

Sheet 6 of 16

6,128,877

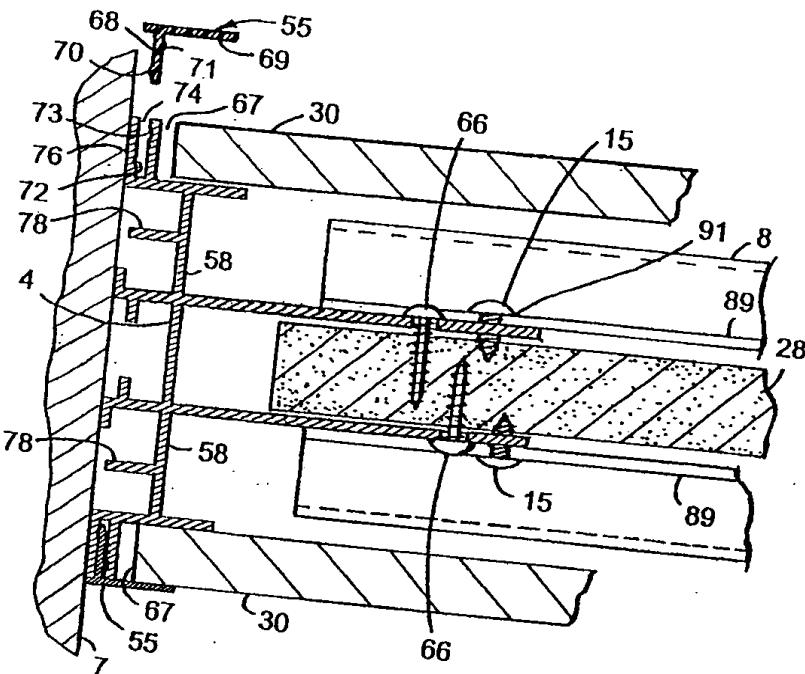


Fig. 9

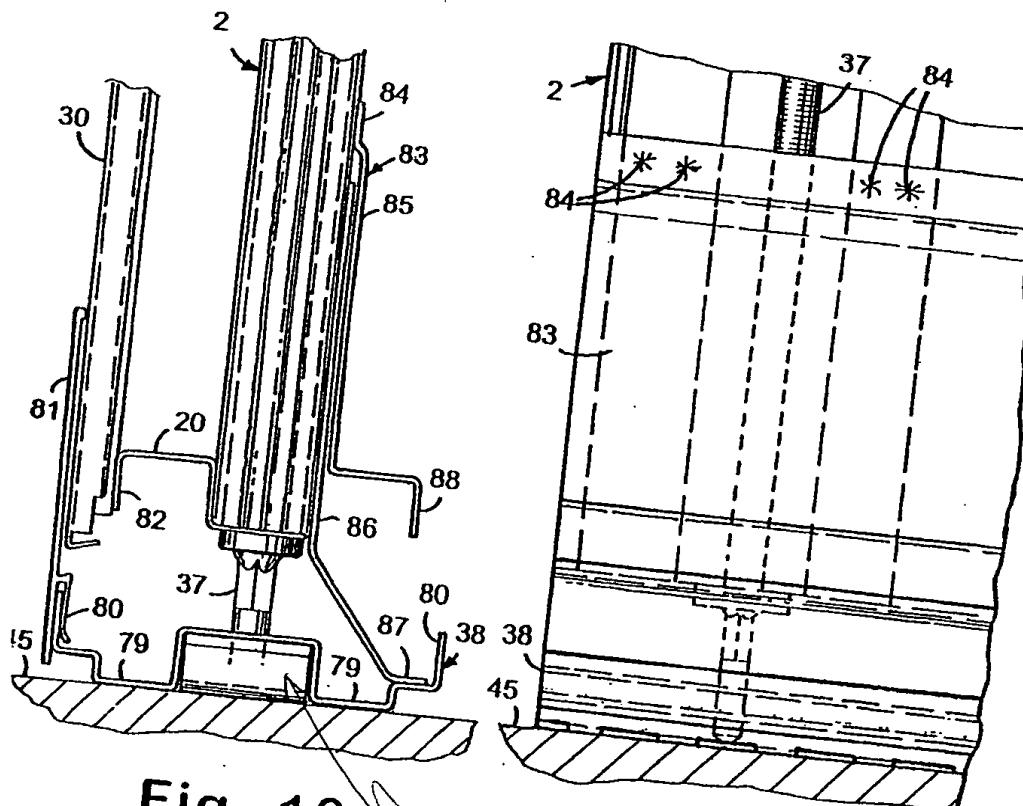


Fig. 10

Fig. 11

FIG. 2

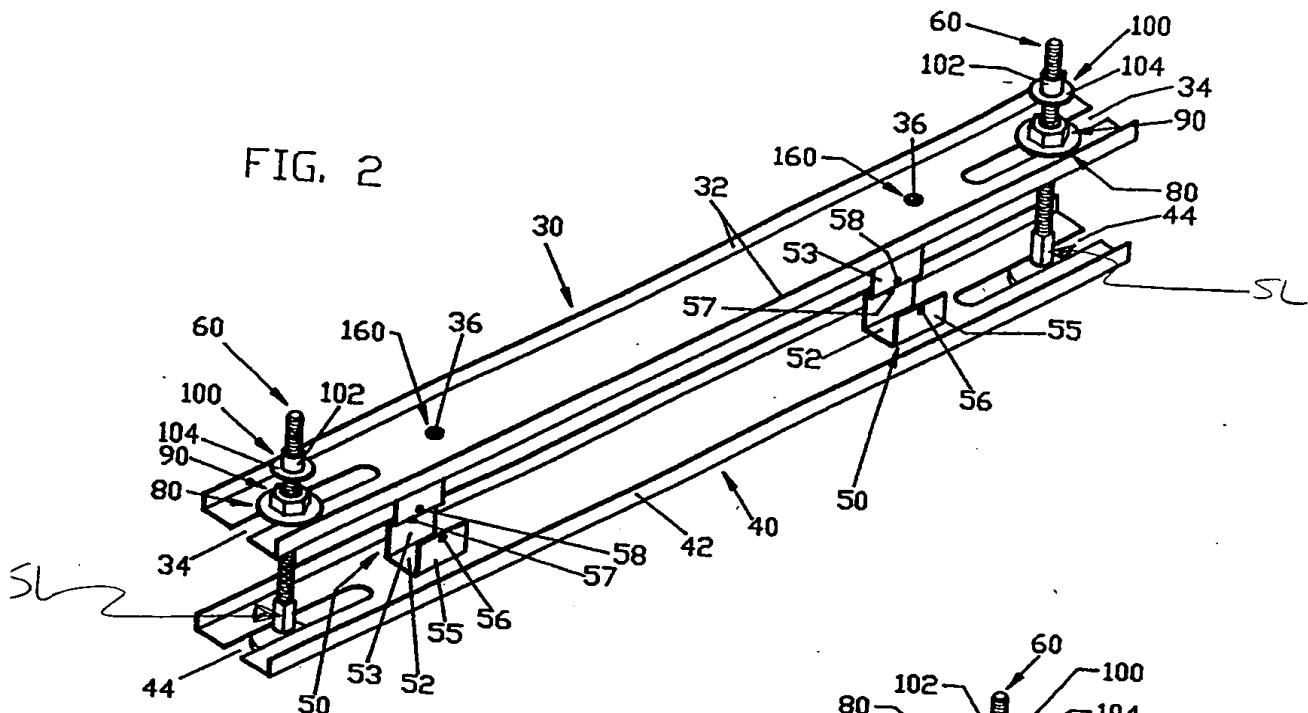


FIG. 3

